SOAH DOCKET NO. 582-10-4184
TCEQ DOCKET NO. 2005-1490-WR

APPLICATION BY THE BRAZOS RIVER AUTHORITY FOR WATER USE PERMIT NO. 5851	**§ § §**	**BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS**

FRIENDS OF THE BRAZOS RIVER, H. JANE VAUGHN, LAWRENCE WILSON, MARY LEE LILLY, BRAZOS RIVER ALLIANCE, KEN HACKETT, AND NATIONAL WILDLIFE FEDERATION'S MOTION FOR EXTENSION OF TIME TO FILE EXCEPTIONS TO THE PROPOSAL FOR DECISION

TO GENERAL COUNSEL TUCKER ROYALL:

Friends of the Brazos River, H. Jane Vaughn, Lawrence Wilson, Mary Lee Lilly, Brazos River Alliance, and Ken Hackett (collectively referred to as FBR) and National Wildlife Federation (NWF) serve this, their Motion for Extension of Time to File Exceptions to the Proposal for Decision, and in support thereof, would respectfully offer the following:

BACKGROUND

By Order dated January 30, 2012, the TCEQ Commissioners remanded the above-referenced matter to the State Office of Administrative Hearings. Applicant Brazos River Authority was instructed to prepare a Water Management Plan, and SOAH was to convene a second hearing on the merits regarding the Water Management Plan and amended application for a System Operation water right.

A hearing on the merits was held in late February, 2015. The Administrative Law Judges issued their Proposal for Decision (PFD) on July 17, 2015. Exceptions to the Proposal for Decision are currently due August 6, 2015, and replies to exceptions are due August 17, 2015. Protestants seek a fourteen-day extension of time to file exceptions to

the Proposal for Decision, extending the deadline for exceptions up until August 20, 2015. Replies to the exceptions would, accordingly, be due August 31, 2015.

BASIS FOR REQUEST

Counsel for FBR has a number of competing current obligations, including:

- Preparing a Response to Motion for Continuance, due July 30th, in the matter of *Application by Pintail Landfill, LLC for New Municipal Solid Waste Permit No. 2377*, before the State Office of Administrative Hearings, SOAH Docket No. 582-14-3597, TCEQ Docket No. 2012-0302-MSW;

- Ongoing discovery and Preparation of a List of Issues, due August 3rd, in the matter of *Application by 130 Environmental Park, LLC for MSW Permit No. 2383*, before the State Office of Administrative Hearings, SOAH Docket No. 582-15-2082, TCEQ Docket No. 2015-0069-MSW;

- Ongoing discovery in the matter of *Application by Post Oak Clean Green, Inc. for Municipal Solid Waste Permit No. 2378*, before the State Office of Administrative Hearings, SOAH Docket No. 582-15-2498; TCEQ Docket No. 2012-0905-MSW;

- Presenting at the Environmental Superconference in Austin, Texas, on August 6th; and

- Preparing a Reply to Responses to Petition for Review, due August 13th, in the matter of *Sierra Club v. Texas Commission on Environmental Quality and Waste Control Specialists, LLC*, before the Supreme Court of Texas, No. 15-0250 and No. 15-0263.

Additionally, counsel for FBR was on previously scheduled vacation when the PFD was issued and was on this vacation up until July 24th.

Finally, this proceeding has been unusually complex, as indicated by the nearly 300-page Proposal for Decision. Allowing the parties ample time to prepare their exceptions would allow the parties to better assist the Commissioners in making their final decision in this matter.

COMMUNICATION WITH OTHER PARTIES

Counsel for FBR has attempted to contact counsel for all parties regarding the contents of this motion. The Executive Director is unopposed to this extension request. Protestants Dow, the Lake Granbury Coalition, Texas Parks and Wildlife Department, NRG Texas Power LLC, the Gavarovics, Comanche County Growers, and Bradley B. Ware are also unopposed to this extension request.

Applicant Brazos River Authority is opposed to this request.

The other parties to this proceeding did not provide a response, indicating whether they are opposed to this request, by the time of the filing of this motion.

PRAYER

FBR and NWF respectfully request the Commission's General Counsel approve a fourteen-day extension of time to file exceptions to the Proposal for Decision in this matter, pursuant to his authority granted by 30 Tex. Admin. Code § 80.257(b).

Respectfully submitted,

Richard Lowerre
State Bar No. 12632900
Marisa Perales
State Bar No. 24002750

FREDERICK, PERALES,
ALLMON & ROCKWELL, P.C.
707 Rio Grande, Suite 200
Austin, Texas 78701
(512) 469-6000
(512) 482-9346 facsimile

COUNSEL FOR FRIENDS OF THE BRAZOS RIVER, H. JANE VAUGHN, LAWRENCE WILSON, MARY LEE LILLY, BRAZOS RIVER ALLIANCE, AND KEN HACKETT

Myron Hess w/permission

Myron Hess
State Bar No. 09549415
Annie E. Kellough
State Bar No. 24074517
44 East Avenue, Ste. 200
Austin, Texas 78702
(512) 620-7754
(512) 476-9810 facsimile

COUNSEL FOR NATIONAL WILDLIFE FEDERATION

CERTIFICATE OF CONFERENCE

By my signature below, I certify that Counsel for FBR has attempted to contact counsel for all parties regarding the contents of this motion. Counsel for the Executive Director has indicated that her client is unopposed to this Motion. Dow, the Lake Granbury Coalition, Texas Parks and Wildlife Department, NRG Texas Power LLC, the Gavarovics, Comanche County Growers, and Bradley B. Ware are also unopposed to this extension request. Applicant Brazos River Authority is opposed to this request. The other parties to this proceeding did not provide a response, indicating whether they are opposed to this request, by the time of the filing of this motion.

Marisa Perales

Marisa Perales

CERTIFICATE OF SERVICE

By my signature below, I certify that on this 31st day of July, 2015, copies of the forgoing Motion for Extension of Time to File Exceptions to the Proposal for Decision was served upon TCEQ General Counsel and the parties identified on the attached service list via electronic mail except where provided otherwise.

Marisa Perales

SERVICE LIST
SOAH DOCKET NO. 582-10-4184
TCEQ DOCKET NO. 2005-1490-WR

State Office of Administrative Hearings
Via E-Filing
The Honorable William Newchurch
The Honorable Hunter Burkhalter
Administrative Law Judges
P.O. Box 13025
Austin, Texas 78711-3025

Chief Clerk
Via E-filing
Bridget Bohac
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Brazos River Authority
Doug Caroom
Susan Maxwell
Emily Rogers
Bickerstaff, Heath, Delgado, Acosta
3711 S. Mopac, Bldg. One, Ste. 300
Austin, Texas 78746
dcaroom@bickerstaff.com
smaxwell@bickerstaff.com
erogers@bickerstaff.com

Executive Director, TCEQ
Robin Smith
Ruth Ann Takeda
Texas Comm'n on Environmental Quality
12100 Park 35 Circle, MC-173
Austin, Texas 78711
robin.smith@tceq.texas.gov
ruth.takeda@tceq.texas.gov

Gulf Coast Water Authority
Molly Cagle
Paulina Williams
Baker Botts
1500 San Jacinto Center
98 San Jacinto Blvd.
Austin, Texas 78701
molly.cagle@bakerbotts.com
paulina.williams@bakerbotts.com

Ron Freeman
8500 Bluffstone Cove, Ste. B-104
Austin, Texas 78759
rfreeman@freemanandcorbett.com

City of Bryan
Jim Mathews
Mathews & Freeland
P.O. Box 1568
Austin, Texas 78767
jmathews@mandf.com

City of Lubbock
and
Texas Westmoreland Coal Company
Brad Castleberry
Lloyd, Gosselink, Rochelle & Townsend
816 Congress Ave., Ste. 1900
Austin, Texas 78701
bcastleberry@lglawfirm.com

NRG Texas Power, LLC
Joe Freeland
Mathews & Freeland
8140 N. Mopac, Westpark II, Ste. 260
Austin, Texas 78759
jfreeland@mandf.com

Office of Public Interest Counsel, TCEQ
Eli Martinez
Texas Comm'n on Environmental Quality
12100 Park 35 Circle, MC-103
Austin, Texas 78711
eli.martinez@tceq.texas.gov

Texas Parks & Wildlife Dept.
Colette Barron Bradsby
4200 Smith School Rd.
Austin, Texas 78744
colette.barron@tpwd.state.tx.us

City of College Station and **City of Lubbock**
Jason Hill
Lloyd, Gosselink, Rochelle & Townsend
816 Congress Ave., Ste. 1900
Austin, Texas 78701
jhill@lglawfirm.com

Chisholm Trail Ventures, LP
Monica Jacobs
Kelly, Hart & Hallman LLP
301 Congress Ave., Ste. 2000
Austin, Texas 78701
monica.jacobs@kellyhart.com

Possum Kingdom Lake Association
John J. Vay
ENOCH KEVER PLLC
600 Congress Ave., Ste. 2800
Austin, Texas 78701
jvay@enochkever.com

Dow Chemical Company
Fred B. Werkenthin, Jr.
Booth, Ahrens & Werkenthin, P.C.
206 E. 9th St., Ste. 1501
Austin, Texas 78701
fbw@baw.com

City of Round Rock
Steve Sheets
Sheets & Crossfield
309 E. Main St.
Round Rock, Texas 78664
slsheets@sheets-crossfield.com

Comanche County Growers and **William & Gladys Gavranovic**
Gwendolyn Hill Webb
Stephen Webb
Webb & Webb
P.O. Box 1329
Austin, Texas 78767
s.p.webb@webbwebblaw.com
g.hill.webb@webbwebblaw.com

City of Houston
Ed McCarthy
Jackson, Sjoberg, McCarthy & Townsend
711 W. 7th St.
Austin, Texas 78701
emccarthy@jacksonsjoberg.com

City of Granbury, Hood County, and **Lake Granbury Waterfront Owners Association (Lake Granbury Coalition)**
Jeff Civins
John Turner
Haynes & Boone
600 Congress Ave., Ste. 1300
Austin, Texas 78701
jeff.civins@haynesboone.com
john.turner@haynesboone.com
and
Ken Ramirez
Shana L. Horton
Law Offices of Ken Ramirez, PLLC
901 Mopac Expressway South
Austin, Texas 78746
ken@kenramirezlaw.com
shana@kenramirezlaw.com

Mike Bingham
1251 C.R. 184
Comanche, Texas 76442
Via deposit in the U.S. mail